

**CITY OF FAYETTEVILLE
STATE OF NORTH CAROLINA
ORDER TO APPROVE A VARIANCE**

Variance to the Corner Side Setback at 423 McPhee Drive (0427432465000).

VARIANCE A26-22

Address: 423 McPhee Dr
REID Number: 0427432465000
Property Owner: Robert and Evelyn Spicer
Applicant: Michael Adams

The Zoning Commission of the City of Fayetteville, North Carolina, conducted an evidentiary hearing on June 9, 2026, to consider a variance application submitted by Michael Adams (“Applicant”), on behalf of Robert and Evelyn Spicer (“Property Owners”), seeking approval to reduce the corner side yard setback from 30 feet to 23 feet at 423 McPhee Drive (0427432465000) (“Subject Property”).

On May 27, 2026, notice of the public hearing was mailed to the Property Owners and all owners of property within three hundred (300) feet of the Subject Property, in accordance with applicable legal requirements. A public hearing notice sign was properly posted on the Subject Property on May 27, 2026. Additionally, on May 29, 2026, notice of the public hearing was submitted for publication in the legal notices section of *The Fayetteville Observer*, with the advertisement scheduled to run on May 29, 2026, and June 5, 2026.

Upon careful consideration of all sworn testimony, admitted evidence, and oral arguments presented by the parties at the duly held evidentiary hearing, the Zoning Commission of the City of Fayetteville hereby issues the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

Findings of Fact

1. Chapter 30, Article 30-3, Subsection 30-3.D.3. of the City’s Unified Development Ordinance (“UDO” or “Ordinance”) establishes the minimum corner side setback.
2. In the Single Family 10 zoning district, the minimum corner side setback is 30 feet.
3. The Property Owners hold title to the Subject Property located on 423 McPhee.
4. The Subject Property is zoned Single Family 10 (SF-10) and is located within the municipal limits of the City of Fayetteville.
5. On April 14, 2026, the Applicant submitted an application requesting a variance to reduce the required corner side setback from 30 feet to 23 feet.

6. The Subject Property is designated as Low-Density Residential (LDR) on the City's adopted Future Land Use Map which are typically single-family residences.

7. The area surrounding the Subject Property is developed as low-density single-family residential.

8. Pursuant to NCGS § 160D-705 the Applicant has the burden of proof to show that the variance meets all the following statutory requirements for variances:

- a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships;
- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the landowner's actions or conditions common to the neighborhood or the general public;
- c. The variance is the minimum action that will make possible a reasonable use of the land or structures;
- d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit; and
- e. In granting the Variance, the public safety and welfare have been assured, and substantial justice has been done.

9. Strict enforcement of the Ordinance requirements would impose practical difficulties and unnecessary hardships because the shape and topography of the of the Subject Property reduce the available buildable area.

10. The hardships result from conditions specific to the property and not the landowner's actions because the shape and topography of the of the lot reduces its buildable area.

11. The variance is the minimum relief necessary to allow reasonable use of the Subject Property because the minimal deviation will allow reasonable additional building consistency with the adjacent houses.

12. The variance aligns with the general purpose and intent of the Ordinance and preserves its spirit because it allows limited setback relief necessary for reasonable residential use of the Subject Property while preserving the character of the surrounding residential area.

13. Granting the variance promotes public safety and welfare while ensuring substantial justice because the reduced corner side setback does not create a threat to public safety and allows reasonable use of the Subject Property under the circumstances.

Conclusions of Law

1. Pursuant to the authority conferred by the North Carolina General Statutes, the City of Fayetteville adopted the Unified Development Ordinance ("UDO"), as codified in

Chapter 30 of the City Code, thereby consolidating the City's zoning and subdivision regulatory authority into a single, comprehensive framework.

2. The Applicant duly submitted an application in full compliance with the procedural and substantive requirements of the UDO for consideration of a Variance.
3. The City of Fayetteville's Zoning Commission provided adequate and lawful notice and conducted an evidentiary public hearing in accordance with the procedural requirements established under North Carolina law.
4. The City of Fayetteville's Development Services Department is responsible for administering, coordinating, and enforcing the provisions of the UDO.
5. Based on the competent, material, and substantial evidence in the record, all of general and specific conditions precedent to the issuance of the requested variance have been satisfied, in that:
 - a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships;
 - b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the landowner's actions or conditions common to the neighborhood or the general public;
 - c. The variance is the minimum action that will make possible a reasonable use of land or structures;
 - d. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit; and
 - e. In granting the variance, the public safety and welfare have been assured, and substantial justice has been done.

WHEREFORE, based on the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, it is ORDERED by the City of Fayetteville's Zoning Commission that the application for the issuance of the Variance in Case A26-22 be APPROVED.

VOTE: Unanimous 5-0

This, the 14th of July, 2026.

Kevin Hight
Zoning Commission Chair